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Agenda item 22

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SIXTH SESSION

Rapporteur: Mr. Osman El-Hajjé

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1994/11. Strengthening the prevention and punishment of the crime of genocide

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering that, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, genocide, as a crime under international law is a crime against humanity,

Recalling that, as pointed out in the Convention, at all periods of history genocide has inflicted great losses on humanity,

Noting that this evil is continuing in our time with equal intensity, as is shown by the atrocities being committed in the former Yugoslavia and in Rwanda,

Considering that this situation highlights the deficiencies of the Convention, which, although it was ratified by the majority of the States Members of the United Nations has never been enforced effectively,

Regretting therefore that, since the international penal tribunal provided for in article VI of the Convention has never actually been set up, the Convention leaves to the accused State alone the responsibility of punishing genocide,

Bearing in mind, in addition to the work of the International Law Commission concerning the statute for an international criminal court, the recommendations made by the Special Rapporteur of the Sub-Commission, Mr. Benjamin Whitaker, in his second report (E/CN.4/Sub.2/1985/6 and Corr.1),

1. Recommends that the Commission on Human Rights request the General Assembly to consider with high priority, with a view to its adoption, the draft statute for an international criminal court that has just been submitted to it by the International Law Commission aiming in particular at the punishment of genocide;

2. Requests the States Parties to the Convention on the Prevention and Punishment of the Crime of Genocide, by virtue of the faculty granted to them by article VIII of the Convention on the Prevention and Punishment of the Crime of Genocide, to encourage - or even undertake - the drafting and adoption of a control mechanism in the form of a treaty committee charged in particular with monitoring compliance of States Parties with the commitments which they undertook

in accordance with article V of the Convention, through the assessment of the reports submitted by the States Parties and, on a preventive basis, to draw the attention of the High Commissioner for Human Rights to situations which may lead to genocide;

3. Recalls that, pursuant to article V of the Convention, the Contracting Parties must enact the necessary legislation to give effect to the provisions of the Convention, and, in particular, to provide effective penalties for persons guilty of genocide;

4. Decides to examine the conditions under which the Convention could be improved by including a clause concerning universal jurisdiction in order to take into account the international character of this crime and also to study the possibility of extending its application, which has until now been limited to ethnic, racial or religious genocide, to political genocide.

34th meeting
25 August 1994
[Adopted without a vote. See chap. XIX.]

1994/12. The situation of the Greek ethnic minority in Albania: infringement of the rules for a fair trial

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as the Basic Principles on the Independence of the Judiciary,

Recalling in particular the provisions of articles 3, 5, 6, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights, articles 6, 7, 9, 10, 14, 15, 16 and 17 of the International Covenant on Civil and Political Rights and the relevant provisions of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Disturbed by the alleged violation of human rights and persecution of members of the Greek ethnic minority in Albania,

Noting with satisfaction the efforts by the High Commissioner for National Minorities of the Conference on Security and Cooperation in Europe to facilitate a solution to the conflict,

1. Calls upon the Government of Albania to abide by the relevant provisions of the above-mentioned international human rights instruments, to take immediately every measure to ensure that the charged persons receive a fair trial and to complete the proceedings of their trial in accordance with the accepted principles of the administration of justice;

2. Requests the Secretary-General to transmit, as soon as possible, the present resolution to the Government of Albania.

34th meeting
25 August 1994
[Adopted by secret ballot by 11 votes to 7, with 5 abstentions. See chap. VII.]

1994/13. Situation in the Middle East

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting General Assembly resolution 48/58 of 14 December 1993, Commission on Human Rights resolution 1994/4 of 18 February 1994 and Economic and Social Council resolution 1994/44 of 29 July 1994,

Recalling the convening of the International Peace Conference on the Middle East at Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups,

Noting with satisfaction the broad international support for the peace process and its contribution to the implementation and furtherance of human rights in the area,

Welcoming the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization in Washington, D.C., on 13 September 1993, and the subsequent agreement on the Gaza Strip and the Jericho area, signed by the Government of

Israel and the Palestine Liberation Organization, the representative of the Palestinian people, at Cairo on 4 May 1994,

1. Reaffirms that the achievement of a comprehensive, just and lasting peace in the Middle East is essential for the implementation and furtherance of human rights and fundamental freedoms in the area;

2. Welcomes the peace process begun at Madrid and warmly supports the subsequent bilateral negotiations through which it has been continued;

3. Endorses the achievements of the peace process to date, which constitute important initial steps in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement the agreements which have been reached;

4. Emphasizes the importance of making progress, as a matter of urgency, on the other tracks of the Arab-Israeli negotiations within the peace process;

5. Supports the request by the Economic and Social Council that all States Members of the United Nations render support for the peace process and extend economic, financial and technical assistance to parties in the region, taking into account, in particular, the needs of the Palestinian people during the interim period;

6. Expresses its full support for the active role which the United Nations is playing in the peace process, and in particular for its assistance in implementing the Declaration of Principles of Interim Self-Government signed by the State of Israel and the Palestine Liberation Organization, which constitutes a positive contribution to the protection of human rights in the Middle East.

34th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

1994/14. Situation of human rights in Iraq

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23), endorsed by the General Assembly in its resolution 48/121 of 20 December 1993, and in particular part I, paragraph 1, which reaffirms inter alia, that human rights and fundamental freedoms are the birthright of all human beings and that their protection and promotion is the first responsibility of Governments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in this field,

Mindful that Iraq is a party to the International Covenants on Human Rights and to other human rights instruments,

Recalling Security Council resolution 688 (1991) of 5 April 1991, in which the Council demanded an end to the repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations to ensure that the human and political rights of all Iraqi citizens were respected,

Recalling also Security Council resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991,

Mindful that the United Nations has not yet sent a fact-finding mission to the marshlands region of southern Iraq,

Recalling in particular its resolution 1993/20 of 20 August 1994, in which it condemned the violations of human rights by the Government of Iraq and urged the implementation of Security Council resolution 688 (1991) of 5 April 1991, in which the Council demanded an end to the repression of Iraqi civilian population,

Deeply concerned by recent information that the population continues to flee the marshlands region, that thousands of Arab Shiah have sought refuge on the border between Iraq and the Islamic Republic of Iran because of artillery bombardment and the programme undertaken by the Iraqi Government to drain the southern marshlands, and that, in July 1994, over 1,300 women and children arrived at the border in a miserable condition, especially regarding health, and have received no assistance from the international community,

Deeply concerned also by the continued massive repression of the Arab Shiah population in the south of Iraq, particularly those who are under siege by the Iraqi armed forces there,

Disturbed by the possibility of a continued exodus of these populations, both to the border area and within Iraq itself,

Concerned that the electricity supply to large cities in Iraqi Kurdistan in the north has been cut off since August 1993, and that recently the

electricity supply to large cities in the south has been reduced to two hours daily, causing more suffering for the population,

Deeply concerned about the continuing terrorist acts of the Iraqi Government, both inside and outside the country, against opposition leaders and United Nations personnel,

Deeply concerned also that Iraq still refuses to cooperate with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, Mr. van der Stoel, and to permit him to visit Iraq to investigate human rights violations and refuses categorically to introduce a monitoring system, as had twice been requested by the General Assembly and the Commission on Human Rights,

Recalling the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1994/58), in which he notes the continued massive and grave violations of human rights by the Government of Iraq, such as summary and arbitrary executions, torture and other cruel, inhuman or degrading treatment, enforced or involuntary disappearances, arbitrary arrest and detention, lack of due process and the rule of law and of freedom of thought, expression and association, as well as the existence of specific and serious discrimination within the country in terms of access to food and health care,

Noting that many international organizations and media have described the negative impact of the international embargo on the civilian population, especially the most vulnerable groups,

Deeply concerned by the internal embargo maintained by the Government against the Kurdish population in the north of Iraq and the Arab Shiah population in the southern marshlands,

1. Expresses its concern at the exceptional gravity of the human rights situation in Iraq and, therefore, welcomes the proposal of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, contained in his report (E/CN.4/1994/58), that human rights monitors be deployed;

2. Calls upon the Government of Iraq immediately to halt its artillery bombardment, to cease all draining schemes and destruction of the marshes and to lift the internal embargo imposed in October 1991 on the populations of the marshlands;

3. Appeals once again to the international community as a whole and to all Governments, including that of Iraq, to facilitate the supply of food and medicines to the civilian population;

4. Calls upon the Government of Iraq to cease its internal embargo against the north and the Shiah populations in the south, both areas which are still under siege, and to re-establish the electricity supply to both regions;

5. Also calls upon the Government of Iraq to cease its terrorist acts against opposition leaders and United Nations personnel;

6. Further calls upon the Government of Iraq to abide by Security Council resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991, which permit the Government of Iraq to sell oil to finance humanitarian assistance for the Iraqi people;

7. Requests the United Nations humanitarian organizations concerned to speed up the delivery of aid to the persons who have sought refuge on the Border between Iraq and the Islamic Republic of Iran, and to ensure that their food and medical needs are satisfied;

8. Urges the Special Rapporteur on the situation of human rights in Iraq to visit the border and the marshlands and to report his findings to the General Assembly;

9. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to undertake his mission;

10. Also requests the Secretary-General to call upon the Government of Iraq to cooperate with the Special Rapporteur;

11. Urges the implementation of Security Council resolution 688 (1991) of 5 April 1991 and of the recommendations of the Special Rapporteur to station permanent monitors in the area of the marshlands and establish permanent aid centres;

12. Condemns the violation of human rights by the Government of Iraq and decides to keep the situation of human rights in Iraq under review at future sessions of the Sub-Commission.

35th meeting
25 August 1994
[Adopted by secret ballot by 14 votes to 7, with 3 abstentions. See chap. VII.]

1994/15. Violation of the human rights of staff members of the United Nations system and other persons acting under the authority of the United Nations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Gravely concerned that staff members of the United Nations system and other persons acting under the authority of the United Nations continue to be detained, unaccounted for, threatened or subjected to other violations of their fundamental rights contrary to the Charter of the United Nations and other international instruments,

Particularly preoccupied by the increasing number of peace-keepers and peace-makers, civilian staff, both international and local, being killed during various United Nations missions,

Recalling the relevant resolutions on this subject, in particular General Assembly resolutions 45/240 of 21 December 1990 and 47/28 of 25 November 1992, Commission on Human Rights resolutions 1991/37 of 5 March 1991, 1992/26 of 28 February 1992, 1993/39 of 5 March 1993 and 1994/42 of 4 March 1994 and Sub-Commission resolutions 1990/20 of 30 August 1990, 1991/17 of 28 August 1991 and 1992/24 of 27 August 1992,

Recalling once again the recommendations contained in the report of the Special Rapporteur, Mrs. Mary Concepcion Bautista, (E/CN.4/Sub.2/1992/19), aiming at improving the protection of personnel of the United Nations system and their families, as well as of experts and consultants,

Referring to the proposals contained in the report of the Secretary-General of 27 August 1993, on the security of United Nations operations (A/48/349-S/26358),

Aware that human rights violations of its personnel can only have a negative effect on the implementation of the mandates of the organizations and bodies of the United Nations system, especially at a time when the United Nations is undertaking greater responsibilities and sending difficult missions to various parts of the world,

Greatly appreciating the efforts of the Secretary-General to promote a satisfactory resolution of all cases of this kind, and noting with interest Security Council resolution 868 (1993) of 29 September 1993 in which the Council

urged States and parties to a conflict to cooperate closely with the United Nations to ensure the security of United Nations forces and personnel,

Recalling the Advisory Opinion of the International Court of Justice of 1949 on the responsibility of States Members for the security of United Nations staff members,

Taking note with satisfaction of General Assembly resolution 48/37 of 9 December 1993, in which the Assembly decided to establish an ad hoc committee, open to all Member States, to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on such personnel,

1. Urges again Governments and other entities holding de facto territorial power to respect and to ensure respect for the rights of staff members and other persons acting under the authority of the United Nations, as well as of their families, and to take the necessary measures to ensure the protection of United Nations and associated personnel in their territory;

2. Requests the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of the personnel of the United Nations system, including experts, and their families, are fully respected and to seek redress and compensation for the damage caused to them and to their organizations, as well as their full reintegration and re-education;

3. Also requests the Secretary-General to take steps to ensure the implementation of the recommendations contained in the report of the Special Rapporteur of the Sub-Commission, Mrs. Mary Concepcion Bautista, on the protection of the human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1992/19), as well as of the proposals made in his report of 27 August 1993 on the security of United Nations operations (A/48/349-S/26358);

4. Urges Governments and other entities holding de facto territorial power, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly in its resolution 43/173 of 9 December 1988, to provide adequate and prompt information concerning the arrest or detention of United Nations staff

members and their families, and to grant the representative of the competent international organization access to them without delay;

5. Calls upon the existing human rights mechanisms, such as the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions to examine the cases involving the human rights of staff members of the United Nations system and of their families, as well as of experts and consultants, and to transmit the relevant part of their respective reports to the Secretary-General for him to include in his report to the Commission on Human Rights;

6. Welcomes the decision of the General Assembly, contained in its resolution 48/37 of 9 December 1993, to establish an ad hoc committee to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on such personnel, and expresses the hope that this convention will be adopted as soon as possible;

7. Recommends that the Commission on Human Rights continue to keep under review the human rights situation of staff members of the United Nations system and other persons acting under the authority of the United Nations.

35th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

1994/16. Situation of human rights in the Islamic Republic of Iran

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its relevant resolutions, including the most recent, resolution 1993/14 of 23 August 1993, calling for an end to the violation of human rights by the Islamic Republic of Iran,

Recalling also relevant resolutions of the Commission on Human Rights, including the most recent, resolution 1994/73 of 9 March 1994, as well as those of the General Assembly, including the most recent, resolution 48/145 of 20 December 1993,

Deeply concerned at extensive and continuing human rights violations by the Government of the Islamic Republic of Iran, including arbitrary and summary executions, torture and inhuman and degrading treatment and punishment, arbitrary arrests and imprisonment, unexplained disappearances, the absence of guarantees essential for the protection of the right to a fair trial and disregard for freedom of expression and freedom of religion,

Shocked by the systematic repression of the Baha'i community and at the situation of the Iranian Kurds and the Arab minority in Iran, and at increasing intolerance towards Christians, including recent murders of Christian religious ministers,

Appalled at the continued repression of women in the Islamic Republic of Iran, including the practice of gender-based discrimination and the use of unacceptable and unjustifiable means of punishment,

Aware of the mounting concern expressed by the authorities of a number of States at the involvement in, and support for, international terrorism by the Islamic Republic of Iran, causing the loss of many lives, and the call by those authorities for action against the aforesaid Republic,

Reaffirming that Governments are accountable for attacks by their agents against persons on the territory of another State, and also for inciting, approving or condoning such acts,

Welcoming the recommendations contained in the report of the Special Representative of the Commission on Human Rights (E/CN.4/1994/50) and the decision of the Commission to continue the Special Representative's mandate,

Expressing its profound regret that the Government of the Islamic Republic of Iran has refused to allow the Special Representative of the Commission to make a further visit to Iran,

Also regretting that the Government of the Islamic Republic of Iran refuses to implement existing agreements with international humanitarian organizations,

Affirming that human rights are universal and indivisible and that the violation of internationally recognized human rights standards cannot be justified by cultural or religious considerations,

1. Endorses the call by the Special Representative of the Commission on Human Rights for the Government of the Islamic Republic of Iran to address the

issues covered in his report (E/CN.4/1994/50) and to take urgent and effective action to improve its record in the field of human rights;

2. Condemns the flagrant violations of human rights in the Islamic Republic of Iran which, as noted by the Special Representative of the Commission include:

(a) Excessive use of the death penalty;

(b) Numerous cases of torture and cruel, inhuman or degrading treatment and punishment;

(c) A failure to meet international standards with regard to due process and the administration of justice;

(d) Religious discrimination, notably against the Baha'is and Christian individuals and groups;

(e) Discrimination against women;

(f) Restrictions on freedom of expression and freedom of opinion and undue limitation of freedom of the press;

(g) The use of excessive force in suppressing public demonstrations, as at Ghazvin, followed in some cases by execution without due process of persons involved in such demonstrations, notably at Zahedan;

3. Demands that the Government of the Islamic Republic of Iran cease forthwith any involvement in or toleration of murder and State-sponsored terrorism against Iranians living abroad and the nationals of other States;

4. Also demands that the Government of the Islamic Republic of Iran withdraw its support for and condoning of repeated threats to the lives of persons of whose opinions, writings or publications it disapproves;

5. Calls upon the Government of the Islamic Republic of Iran to cooperate with the judicial authorities in countries around the world which are investigating incidents of international terrorism, and in particular to return for trial in Switzerland two persons accused of the murder of Professor Kazem Rajavi who were returned to Iran and who are sought by the Swiss judicial authorities;

6. Urges the Government of the Islamic Republic of Iran to comply with all current international norms in the field of human rights, including in

particular those contained in the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party;

7. Strongly supports the view of the Commission on Human Rights that the international monitoring of the human rights situation in the Islamic Republic of Iran should be continued;

8. Requests the Secretary-General to continue to keep the Sub-Commission informed of relevant reports and United Nations measures to prevent human rights violations in the Islamic Republic of Iran, including, in particular, those concerning the situation of the Kurds and the Arab minority and the religious freedoms of the Baha'i and Christian communities in Iran;

9. Decides to consider further the situation of human rights in the Islamic Republic of Iran at its forty-seventh session.

35th meeting
25 August 1994
[Adopted by secret ballot by 15 votes to 6, with 3 abstentions. See chap VII.]

1994/17. Situation in Burundi

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to discharge the obligations set out in the various applicable instruments,

Emphasizing that Burundi is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling the Commission on Human Rights resolution 1994/86 of 9 March 1994,

Taking note of decision 2 (45) on the situation in Burundi adopted by the Committee on the Elimination of Racial Discrimination on 16 August 1994,

Regretting the adverse effects of local mass media reports which foster racial hatred and violence,

Having examined with interest the comments of the Human Rights Committee at its fifty-first session (CCPR/C/79/Add.41),

Seriously concerned by forcible transfers of people and the massive exodus of people from Burundi beyond the frontiers, causing the loss of agricultural production and thus risking major nutritional problems,

Emphasizing the need to reinforce preventive measures to halt the deterioration of the situation, where this is still possible,

Convinced that the impunity enjoyed by the perpetrators of gross and massive human rights violations such as the assassination of the President of the Republic on 21 October 1993, the massacres of innocent civilians at the instigation of some Government officials and the subsequent repression by the army using, in many instances, excessive force, provokes an unending cycle of acts of collective vengeance,

1. Requests the establishment, by independent bodies, of the individual responsibility of those involved in the commission of those crimes, coupled with the punishment of those individuals;

2. Encourages the efforts of the High Commissioner for Human Rights, the Centre for Human Rights and non-governmental organizations to accelerate the establishment of a programme of assistance in Burundi in order that the current situation of massive violations of human rights does not prevent the application of preventive measures to halt the deterioration of the situation;

3. Welcomes the conclusion of the Human Rights Committee in which it stated that it was ready to respond constructively to any appropriate request for assistance made by the Government of Burundi, provided that it is clear and accompanied by a firm resolve on the part of the Government to adopt the measures necessary for the effective implementation of the Covenant (CCPR/C/79/Add.41, para. 18);

4. Places all its facilities at the disposal of the Centre for Human Rights;

5. Expresses the fear that the prevailing situation of massive human rights violations in Burundi could impede the implementation of the measures of assistance;

6. Urges the authorities of Burundi to make fully effective all measures necessary to carry out an inquiry into summary and arbitrary executions, to punish those responsible, to disarm the population and to repress all forms of encouragement of racial hatred and to plan the establishment of an independent multi-party commission to make recommendations for the application of these measures;

7. Expresses the hope that an initial mission, having as its main objective the bringing of assistance to Burundi, will be appointed by the Secretary-General of the United Nations and that, as a preventive measure, the Secretary-General will have recourse to the competent organs of the United Nations;

8. Calls on the Special Representative of the Secretary-General for Burundi, the High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission on Human Rights to invite the competent authorities to strengthen their surveillance of the human rights situation in Burundi, sending out observers with a view to preventing any re-emergence of violence;

9. Appeals to the moderate forces in the main political parties of Burundi to work together to alleviate ethnic tension in the country by resolving the constitutional crisis on the basis of the rule of law and respect for human rights.

35th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

1994/18. Human rights and terrorism

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind that the most essential and basic human right is the right to life,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Recalling also General Assembly resolution 48/122 of 20 December 1993, Commission on Human Rights resolution 1994/46 of 4 March 1994 and its own resolution 1993/13 of 20 August 1993,

Reiterating its deep concern at the persistence of acts of terrorism and the gross violations of human rights perpetrated by terrorist groups,

Profoundly deploring the increasing number of innocent persons killed, massacred and maimed by terrorists in indiscriminate and random acts of violence and terror, which cannot be justified under any circumstances,

1. Reiterates its unequivocal condemnation of all acts, methods and practices of terrorism as human rights violations aimed at the destruction of fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of States;

2. Calls upon Governments to take all necessary and effective measures, in conformity with international standards of human rights, to prevent, combat and eliminate terrorism, and urges the international community to enhance cooperation in the fight against terrorism at the national, regional and international levels;

3. Decides, in accordance with the Commission on Human Rights resolution 1994/46, to entrust Mr. Saïd Naceur Ramadhane with the task of preparing, without financial implications, a working paper on the question of terrorism and human rights, to be considered at its forty-seventh session.

35th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

1994/19. Situation of human rights in Chad

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to fulfil the obligations set out in the various applicable instruments,

Recalling its resolution 1993/10 of 20 August 1993,

Also recalling that Chad has ratified the African Charter of Human and Peoples' Rights,

Taking into account the fact that the democratization process has started in Chad,

Insisting that there is still room for press freedom,

Concerned, however, by the delays in implementing the majority of the measures relating to the human rights contained in the programme of the transitional Government,

Deeply concerned by the flagrant systematic violations of human rights in Chad, especially by massive summary and extrajudicial executions, by enforced disappearances and arbitrary detentions, of which human rights militants in particular are victims, and by the impunity enjoyed by those responsible for violations of human rights,

1. Strongly condemns the massive and persistent human rights violations in Chad committed by the armed and security forces, including the Republican Guard;

2. Requests the Chad authorities to put into effect measures to promote human rights and fundamental liberties, particularly by applying the proposals set out in the programme of the transitional Government;

3. Calls on the Commission on Human Rights at its fifty-first session to decide to establish a monitoring system for the general human rights situation in Chad, with a view to examining the question at its fifty-second session;

4. Decides to keep this question on the agenda at its forty-seventh session.

35th meeting
25 August 1994
[Adopted by 18 votes to 6, with
1 abstention. See chap. VII.]

1994/20. Situation of human rights in Togo

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming that all Member States have the right and duty to promote and protect human rights and to discharge the obligations set out in the various applicable instruments,

Pointing out that Togo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and of the African Charter of Human and Peoples' Rights,

Recalling Commission on Human Rights resolution 1994/78 of 9 March 1994,

Having considered with interest the comments of the Human Rights Committee at its fifty-first session (CCPR/C/79/Add.36),

Very concerned by the serious obstacles to the democratization process and seeking to encourage its development with full respect for human rights and fundamental freedoms,

Deeply concerned in this connection by the persistent gravity of the situation of human rights in Togo, particularly by the summary or extrajudicial executions, arbitrary arrests or detentions and by torture and other cruel, inhuman or degrading treatment, for which the armed and security forces are largely responsible,

Recalling the impunity enjoyed by those who commit human rights violations, particularly because of serious failings in the legal system, especially the lack of independence and impartiality of the judiciary,

Concerned by the serious attacks on freedom of the press,

Pointing out that the situation described above is a serious setback to the rule of law in Togo,

1. Strongly condemns the massive and persistent violations of human rights in Togo;

2. Requests the Togolese authorities to adopt all measures necessary to end the impunity enjoyed by those responsible for breaches of human rights;

3. Calls upon the Commission on Human Rights to appoint, at its fifty-first session, a special rapporteur with the mandate of reporting on the human rights situation in Togo.

35th meeting
25 August 1994
[Adopted by secret ballot by 20 votes to 4, with 1 abstention. See chap. VII.]

1994/21. Situation in Bougainville

The Sub-Commission on the Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1992/19 of 27 August 1992 concerning the protection and promotion of human rights in Bougainville,

Recalling also resolutions 1993/76 of 10 March 1993 and 1994/81 of 9 March 1994 of the Commission on Human Rights on the same subject,

Mindful of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions,

Acutely conscious of the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions, (E/CN.4/1994/7 and Add.1 and 2 and Corr.1 and 2) according to which a large number of human rights violations, including extrajudicial, summary and arbitrary executions, had occurred in Bougainville since April 1991 in the context of the ongoing armed conflict between the Defence Forces of Papua New Guinea and the Bougainville Revolutionary Army,

Aware that in April 1994 an Australian Parliamentary delegation visited Bougainville, but was denied access to significant parts of the island by the Government of Papua New Guinea,

Deeply concerned at reports that the Defence Forces of Papua New Guinea continue to violate human rights and fundamental freedoms in Bougainville,

Gravely concerned that medical supplies and other humanitarian aid is being prevented from reaching sections of the Bougainville population by a military blockade imposed by the Defence Forces of Papua New Guinea, resulting in many deaths,

1. Calls on all parties to the conflict in Bougainville to respect strictly all human rights and fundamental freedoms, in particular the right to life and the right to freedom of movement;

2. Calls upon the Government of Papua New Guinea to allow, as a matter of urgency, the immediate and unconditional flow of medical supplies and other humanitarian aid into all parts of Bougainville, including the area currently subject to a military blockade;

3. Regrets that the Government of Papua New Guinea, after agreeing to negotiate, has now unilaterally suspended the negotiations;

4. Urges the Government of Papua New Guinea to resume such negotiations without delay as a means of achieving a just and peaceful resolution to the conflict in the interest of avoiding further human rights violations;

5. Also urges the Government of Papua New Guinea immediately to invite the relevant Special Rapporteurs to investigate reports of torture and extrajudicial, summary and arbitrary executions in Bougainville, and to cooperate with them to enable them to fulfil their mandates;

6. Expresses its appreciation at the adoption by the Commission on Human Rights of resolution 1994/81 of 9 March 1994, in which it requested the Secretary-General to consider the appropriateness of appointing a special representative concerning the human rights situation in Bougainville.

35th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

1994/22. Situation of human rights in Haiti

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Reaffirming that all Member States have the obligation to promote human rights and to fulfil the obligations they have undertaken under the various instruments in this field,

Recalling the resolutions on the situation in Haiti adopted by the competent bodies of the United Nations and the Organization of American States since the events of 30 September 1991, in particular General Assembly resolution 47/143 of 18 December 1992, Commission on Human Rights resolutions 1993/68 of 10 March 1993 and 1994/80 of 9 March 1994 and Sub-Commission resolutions 1992/16 of 27 August 1992 and 1993/18 of 20 August 1993, as well as the relevant resolutions of the Permanent Council of the Organization of American States and the General Assembly of that organization,

Having in mind the report (E/CN.4/1994/55) on the situation in Haiti prepared by the Special Rapporteur of the Commission on Human Rights, Mr. Marco Tulio Bruni Celli, in which he reports numerous violations of the right to life, security of person, freedom of expression, freedom of association and freedom of movement in that country,

Deeply concerned about the grave events in Haiti since 29 September 1991, which abruptly and violently interrupted the democratic process in that country and have resulted in the loss of human lives and violations of human rights,

Concerned at the mass exodus of Haitian nationals fleeing the country because of the steadily deteriorating political and economic situation since 29 September 1991,

Deeply alarmed at the persistence and worsening of violations of human rights, in particular, summary and arbitrary executions, involuntary disappearances, reports of the torture and rape of women and children, which have increased dramatically since 1993, arbitrary arrests and detentions, denial of freedom of expression, assembly and association, and the grave deterioration of the political, economic and social situation in the country,

Concerned about the expulsion, on 11 July 1994, by the de facto Haitian authorities of the International Civilian Mission of Observers of the United Nations and of the Organization of American States,

Taking into account the signature by all parties of the Governors Island Agreement of 3 July 1993 and the New York Pact of 16 July 1993,

Observing that the de facto regime in Haiti has not implemented those agreements and has not fulfilled its obligations under the resolutions adopted by various organs and bodies of the United Nations system,

Aware of the urgent need to keep a close watch on the situation of human rights in Haiti,

1. Once again strongly condemns the overthrow of the constitutionally elected President, Mr. Jean-Bertrand Aristide, and the use of violence and military coercion, and the deterioration of the situation of human rights in that country;

2. Expresses its conviction that the full implementation of the Governors Island Agreement by all parties is the only valid framework for resolving the crisis in Haiti and guaranteeing the constitutional order, in order to achieve an improvement in the human rights situation in the country, and that the refusal by the Haitian military to implement this Agreement has led to a deterioration of the human rights situation;

3. Expresses its deep concern about the considerable worsening of the human rights situation in Haiti since the coup d'état in September 1991 and the resulting increase in violations of the human rights embodied in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights and other international human rights instruments;

4. Again condemns the human rights situation, in particular since mid-1993, characterized by deaths, disappearances and assassinations, persecution, arbitrary arrests, torture, rape, improper demands by members of the armed forces for payment by citizens, abandonment of legislative programmes, the reappearance of the section chiefs, the banning of demonstrations and police repression of all acts of protest against the military authorities, as well as

the grave deterioration of the political, economic and social situation in the country;

5. Draws the attention of the members of the international community to the fate of the Haitian nationals who are fleeing their country and requests their support for the efforts being made to assist them, inter alia, by considering possibilities of offering them temporary asylum;

6. Greatly hopes that the International Civilian Mission of Observers of the United Nations and of the Organization of American States will very soon be able to resume its work in Haiti, thus helping to prevent the perpetuation of certain human rights violations;

7. Requests the Secretary-General of the United Nations to take any initiatives which may lead to a prompt solution to the crisis, particularly those which will peacefully re-establish constitutional order in the country, allow the constitutional President of the Republic, Jean-Bertrand Aristide, to return to Haiti and thus guarantee human rights;

8. Calls upon the States Members of the United Nations and other international organizations to intensify their humanitarian assistance to the people of Haiti, support all the efforts made to solve the problems of displaced persons and encourage the strengthening of the institutional coordination between the specialized agencies of the United Nations and between the United Nations and the Organization of American States;

9. Expresses the hope that the mission of good offices being prepared by a group of Latin American countries will meet with success and thus permit the deployment of the United Nations Mission in Haiti with the objective of cooperating with the lawful authorities for the professionalization of the army, the creation of a separate police force and the setting up of the necessary structures to guarantee the country a climate for the establishment of democracy, as provided in the Governors Island Agreement;

10. Decides to continue its consideration of the situation of human rights in Haiti at its forty-seventh session, under agenda item 6.

35th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

1994/23. Situation of human rights in Guatemala

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the other international human rights instruments, as well as by the relevant norms and principles of international humanitarian law,

Recalling its resolution 1993/16 of 20 August 1993,

Bearing in mind that, in its resolution 1994/58 of 4 March 1994, the Commission on Human Rights took note with appreciation of the report by the independent expert on the situation of human rights in Guatemala, Ms. Mónica Pinto (E/CN.4/1994/10), which contains important recommendations to improve the human rights situation in the country,

Welcoming the measures adopted by the President of Guatemala in order to strengthen democracy and the rule of law,

Taking note with satisfaction of the signing of the agreements between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca,

Having considered the Framework Agreement for the Resumption of the Negotiating Process for a Firm and Lasting Peace between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, signed in Mexico on 10 January 1994,

Recalling further that the Parties agreed in the Framework Agreement that all their agreements should be accompanied by appropriate verification mechanisms at both the national and the international levels, and that the United Nations will be responsible for such international mechanisms,

Emphasizing the importance of the signing of the Comprehensive Agreement on Human Rights, the Agreement on a Timetable for a Firm and Lasting Peace, the Agreement for the Resettlement of the Populations Uprooted by the Armed Confrontation and the Agreement on the Establishment of the Commission to Investigate Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan Population, signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, the first two in Mexico on 29 March 1994 and the third and fourth in Oslo on 17 and 20 June 1994, respectively,

Taking into consideration that, in the Comprehensive Agreement on Human Rights, the parties request the Secretary-General to organize a mission for the verification of compliance with commitments contained in the Agreement,

Mindful of the importance of the role to be played by the Assembly of Civil Society, provided for in the Framework Agreement, in making

recommendations to the Parties on the most important points of the negotiations, including those relating to the identity and rights of indigenous peoples,

Concerned because, more than four months after the signing of the Comprehensive Agreement on Human Rights, the above-mentioned United Nations verification mission has still not been established,

Concerned that there continue to be complaints about human rights violations, whatever the source of the violations,

Concerned also at the fact that cases of impunity continue to exist and little progress has been made in the investigations and judicial proceedings concerning cases of human rights violations,

Concerned further at the situation of the displaced population in the areas affected by the internal armed conflict, as well as the extremely difficult conditions in which returnees are living,

Distressed at the persistence of the age-old marginalization and discrimination suffered by the indigenous populations in Guatemala,

1. Expresses its support for the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, as well as the United Nations Mediator, for their endeavours to secure a firm and lasting peace;

2. Also expresses its firm support for the independent expert responsible for reporting on the situation of human rights in Guatemala, Ms. Mónica Pinto, and requests the Government of Guatemala to continue to cooperate fully with her;

3. Expresses its concern at the fact that the signing of the Comprehensive Agreement on Human Rights has not led to an improvement in the human rights situation;

4. Exhorts the Government of Guatemala to intensify its efforts to guarantee full respect for human rights by all the authorities, the armed and security forces and to bring to trial anyone guilty of serious violations of human rights and guarantee proper functioning of the administration of justice;

5. Requests the Government of Guatemala, as soon as possible, to increase economic and social development programmes and to strengthen in particular policies and programmes concerning the indigenous population, promoting its full participation, taking into account its proposals and respecting the country's multicultural nature;

6. Requests all the Parties to proceed to fulfil the commitments entered into and in particular requests the Government to implement the Comprehensive Agreement on Human Rights, which has been in force since 29 March 1994, and any other immediately applicable provision, as well as to prepare the urgent and necessary conditions for prompt implementation of the other agreements, once the Firm and Lasting Peace Agreement is signed;

7. Appeals, to this end, to the Secretary-General for him, by every means at his disposal, to ensure the establishment, as soon as possible, of the United Nations Verification Mission in Guatemala;

8. Requests the Parties to take into special account, for the purposes of future agreements, the proposals agreed on by the Assembly of Civil Society and encourages the Assembly to continue its constructive work in finding consensus for the necessary transformation of the Guatemalan State and in society, in particular in all matters pertaining to full realization of the civil, political, economic, social and cultural rights of the entire population, within the framework of the peace agreements.

35th meeting
25 August 1994
[Adopted without a vote. See chap. VII.]

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